

FULL BOARD MEETING MINUTES
of the
BOARD OF MEDICAL EXAMINERS
301 S. Park Ave, 4th Floor Conference Room, Helena MT
9:30 a.m. – 4:15 p.m.
Friday, March 15, 2013

1. Call To Order (00:00)

The Board recognized Dr. Dean Center for his many years of active service to the Board with a plaque, a gift certificate, and a card.

The Board learned of Ms. Eileen Sheehy's resignation from the Board.

The Board recognized Dr. Anna Earl for her faithful and diligent service to the Board as its Chair with a gavel, a floral arrangement, and a card.

Establish Quorum (06:10)

Members Present: Dr. Kristin Spanjian (Presiding Officer), Ms. Pat Bollinger, Dr. Anna Earl (by telephone), Ms. Tanja Brekke, Ms. Carole Erickson, Mr. Charles Farmer, Dr. Mary Anne Guggenheim, Dr. Bruce Hayward, Dr. Nathan Thomas, Mr. Dwight Thompson, Dr. James Upchurch, Mr. Don Sullivan

Members Absent: Ms. Eileen Sheehy

Staff Present: Mr. Ian Marquand, Ms. L'Joy Griebenow, Anne O'Leary, Esq., Dr. Harry Sibold, Mr. Ken Threet, Ms. LaVelle Potter, Mr. Bill Sybrant

Guests Present: Mr. Michael Ramirez, Ms. Lynn Rosenberg, Gregory Van Horsen, Esq., Mr. Robert Murphy, Ms. Kay Brown (present by telephone), Dr. Vincent Pons, Dr. Paul Cook (present by telephone), Dr. Michael Ganz (present by telephone) and Dr. Jagjit Mangat (present by telephone)

2. Approval and Tentative Modification of Agenda Order (07:39)

The Board reviewed the March 15, 2013 Agenda.

MOTION Dr. Bruce Hayward made a motion to approve the January 25, 2013 agenda; Dr. Thomas seconded the motion. Motion passed unanimously. (08:31)

3. Review and Approve Minutes

a. Minutes from January 25, 2013 **(08:49)**

The Board reviewed the January 25, 2013 Full Board Meeting Minutes.

MOTION: Dr. Guggenheim made a motion to approve the January 25, 2013 meeting minutes as amended; Ms. Bollinger seconded the motion. Motion passed unanimously. (10:39)

MOTION: Dr. Thomas made a motion to approve the January 25, 2013 executive session meeting minutes as presented; Dr. Hayward seconded the motion. Motion passed unanimously. (11:15)

b. Minutes from March 1, 2013 (11:27)

The Board reviewed the Minutes from the March 1, 2013 Full Board Meeting Minutes.

MOTION: Ms. Brekke made a motion to approve the March 1, 2013 meeting minutes as amended; Ms. Bollinger seconded the motion. Motion passed unanimously. (12:06)

c. Minutes from March 12, 2013 (12:21)

The Board reviewed the March 12, 2013 Full Board Meeting Minutes.

MOTION: Ms. Erickson made a motion to approve the March 12, 2013 meeting minutes; Dr. Upchurch seconded the motion. Motion passed unanimously. (13:47)

d. Requested amendment to Minutes from October 7, 2011—Ms. Anne O’Leary (14:40)

Ms. O’Leary led the discussion regarding reconsidering the October 7, 2011 Full Board Meeting Minutes.

MOTION: Dr. Hayward made a motion to remove the last two sentences under [Item # 8] D because these matters should have been discussed during executive session; Dr. Thomas seconded the motion. Motion passed unanimously. (18:58)

4. Public Opportunity to Comment (20:03)

The Presiding Officer read the statement of public participation and opened the meeting for public comment. Mr. Threet requested that the Board reconsider its decision regarding EMS reciprocity; there was no other public comment.

5. Compliance Report (21:25)

Ms. LaVelle Potter reported on the results from the morning screening panel meeting. The panel reviewed 4 cases of which 3 cases were dismissed without prejudice, and 1 case was dismissed with prejudice. This was for information only; no Board action taken.

6. Department Update (22:04)

Mr. Marquand led the discussion. This was for information only; no Board action taken.

7. Board Action

a. Licensed Clinical Pharmacist Practitioner Applications (from Board of Pharmacy) (22:45)

Mr. Sybrant introduced the applications.

i. Donald Brown (24:01)

MOTION: Dr. Hayward made a motion to approve the clinical pharmacist practitioner application of Donald Brown; Ms. Erickson seconded the motion. Motion passed unanimously. (25:28)

ii. Donna Beall (25:57)

MOTION: Dr. Guggenheim made a motion to approve the clinical pharmacist practitioner application of Donald Brown; Dr. Upchurch seconded the motion. Motion passed unanimously. (29:01)

b. Non-routine Applications

i. Paul Cook, MD (30:24)

Dr. Cook was present by telephone before the Board. Ms. O'Leary briefly reviewed the Board's involvement to-date in connection with Dr. Cook's application. Dr. Cook provided an update. This was for information only; no Board action taken.

ii. Steven Khalil, MD (36:17)

Dr. Khalil was not present before the Board. Ms. O'Leary briefly reviewed the Board's involvement to-date in connection with Dr. Khalil's application. The Board discussed Dr. Khalil's application.

MOTION: Mr. Thompson made a motion to grant a full and unrestricted physician license to Dr. Khalil; Dr. Thomas seconded the motion. Motion passed unanimously. (38:29)

iii. Jagjit Mangat, MD (40:57)

Dr. Mangat was present by telephone before the Board. Ms. O'Leary briefly reviewed the Board's involvement to-date in connection with Dr. Mangat's application. The Board discussed Dr. Mangat's application with him.

MOTION: Dr. Hayward made a motion to grant a full and unrestricted physician license to Dr. Mangat; Ms. Bollinger seconded the motion. Motion passed unanimously. (47:48)

iv. Lynn Rosenberg, EMTF (48:32)

Ms. Rosenberg was present before the Board. Ms. O'Leary briefly reviewed the Board's involvement to-date in connection with Ms. Rosenberg's application. The Board discussed Ms. Rosenberg's application with her. Mr. Thompson recused himself from all voting in connection with Ms. Rosenberg's application.

MOTION: Dr. Upchurch made a motion to support Ms. Rosenberg to take the NREMT exam [whether it be used as certification by NREMT or as an assessment test by the Board]; (1:12:11) Discussion ensued. Dr. Upchurch amended his motion as follows (01:15:01):

MOTION: Dr. Upchurch made a motion that the Montana Board of Medical Examiners find that extraordinary circumstances exist in Ms. Rosenberg's case, she has established by clear and convincing evidence that certification will not jeopardize public health and safety, and that she be allowed to take the NREMT examination and upon passing be certified by the NREMT; Mr. Farmer seconded the motion. Motion passed unanimously. (01:15:37)

MOTION: Dr. Upchurch made a motion that if Ms. Rosenberg successfully completes the NREMT certification examination, the Board [authorizes staff] to grant to Ms. Rosenberg a probationary license [to run concurrently

with her federal probation]; Ms. Bollinger seconded the motion. (01:16:17)
Discussion ensued. (1:18:50)

MOTION: Dr. Upchurch made a motion that if the NREMT will not accept Ms. Rosenberg for certification that Montana [staff] can use the assessment examination to grant a [probationary] license [to run concurrently with her federal probation]; Ms. Brekke seconded the motion (01:19:01)

v. Michael Ganz, MD (1:21:40)

Dr. Ganz was present by telephone before the Board. Ms. O'Leary briefly reviewed the Board's involvement to-date in connection with his application. The Board discussed Dr. Ganz's application with him.

MOTION: Dr. Guggenheim made a motion to grant a full and unrestricted physician license to Dr. Ganz; Dr. Hayward seconded the motion. Motion passed unanimously. (1:24:13)

***** BREAK ***** (1:25:07 – 1:29:56)

vi. Gregory Shulte, MD (1:30:02)

[The Board Chair determined that the demands of individual privacy clearly exceed the merits of public disclosure with respect to this application. As a result, this application will be considered in executive session.]

vii. Curtis Rowe, EMTF (1:30:17)

Mr. Rowe was not present before the Board. Ms. O'Leary briefly reviewed the Board's involvement to-date in connection with Mr. Rowe's application. The Board discussed Mr. Rowe's application.

MOTION: Dr. Upchurch made a motion to grant to Mr. Rowe an unrestricted license without an MPAP contract; Ms. Brekke seconded the motion. (1:36:22) Discussion ensued.

Dr. Upchurch amended his motion (1:37:20) as follows:

Dr. Upchurch made a motion to grant to Mr. Rowe an unrestricted license without further [MPAP] monitoring; [if] Mr. Ramirez receives further information [the Board might] require a contract with MPAP; Ms. Brekke seconded the motion. Discussion ensued. Motion passed unanimously. (1:38:08)

viii. Susan Maier, MD (1:38:26)

Dr. Maier was not present before the Board. Ms. O'Leary briefly reviewed the Board's involvement to-date in connection with Dr. Maier's application. The Board discussed Dr. Maier's application.

MOTION: Ms. Erickson made a motion that the Board accepts the stipulation [granting] a one year probationary license to Dr. Susan G. Maier; Dr. Thomas seconded the motion. (1:40:28)

c. Licensee Administrative Action (1:42:25)

- i. Petition of Robert Murphy, PA-C for Re-consideration of Board Action

[The Board Chair determined that the demands of individual privacy clearly exceed the merits of public disclosure with respect to this application. As a result, this application will be considered in executive session.]

d. Correspondence (1:42:41)

- i. FSMB Memorandum on USMLE Attempt Limit Policy Change
Mr. Marquand led the discussion. This was for information only; no Board action taken.

f. Legislation (1:46:18)

- i. Bills being monitored by BSD and BOME staff

Mr. Marquand led the discussion.

MOTION: Dr. Guggenheim made a motion to request permission to oppose House Bill 365 if it goes to committee in its current form [and Ms. Bollinger would be the Board representative to testify at that hearing]; Mr. Thompson seconded the motion. (1:57:45) Discussion ensued. Motion passed unanimously. (2:01:09)

MOTION: Ms. Erickson made a motion to request permission [for Dr. Guggenheim to represent the Board to oppose Senate Bill 377]. (2:11:49) [Motion died for lack of a second.]

MOTION: Ms. Erickson made a motion to direct Mr. Marquand to prepare a letter [for Dr. Spanjian's signature expressing the Board's concerns and proposed changes to Senate Bill 377] for Dr. Guggenheim to convey in person to Sen. Wanzenried; Dr. Upchurch seconded the motion. (2:13:45) Discussion ensued. Motion passed unanimously. (2:16:14)

MOTION: Ms. Brekke made a motion that if the proposed changes are not accepted that the Board would request permission from the Governor's office [for Dr. Guggenheim to represent the Board] to speak in opposition at the hearing; Ms. Bollinger seconded the motion. (2:16:24) Motion passed unanimously.

Dr. Kris Spanjian transitioned the Board meeting into executive session. (2:17:50)

e. Working Lunch (Executive Session) (2:17:51)

Dr. Kris Spanjian returned the meeting back to open session. **(2:19:37)** A quorum was present.

c. Licensee Administrative Action (2:19:54)

- i. Petition of Robert Murphy, PA-C for Re-consideration of Board Action

The Board Chair summarized the results from the executive session in connection with this petition: The Board revised the National Practitioner Databank entry on Mr. Murphy.

a. Non-routine Application (2:20:04)

- ii. Gregory Shulte, MD

The Board Chair summarized the results from the executive session in connection with this application: The Board granted Dr. Shulte a full and unrestricted physician license with the condition of a 5-year MPAP agreement

e. Working Lunch - Executive Session [Additional Results]

- i. The Board Chair summarized the results from the executive session in connection with the MPAP Report: The Board accepted the MPAP Report from Mr. Ramirez. **(2:20:19)**
- ii. The Board Chair summarized the results from the executive session in connection with an unlicensed practice complaint (2012 MED-UNLIC-76) regarding a naturopath: The Board dismissed the complaint without prejudice. **(2:20:25)**

3. Review of Minutes (continued) (2:20:47)

The Board noted an error (accidental duplication of motions under Board Actions A and B) which required correction to the March 1, 2013 Full Board Meeting Minutes. Mr. Marquand read out the correct motion for Board Action B as follows:

“MOTION: Ms. Tanja Brekke moved to approve Dwight Thompson to attend FSMB in April 2013; Ms. Pat Bollinger seconded. Motion carried.”

MOTION: Ms. Brekke made a motion to amend the previously approved March 1, 2013 meeting minutes by substituting the language provided by Mr. Marquand; Ms. Bollinger seconded the motion. Motion passed unanimously. (2:21:57)

7. Board Action (continued)

f. Legislation (continued) (2:22:36)

- i. Bills being monitored by BSD and BOME staff (continued)

Mr. Marquand led the discussion. This was for information only; no Board action taken.

g. Rulemaking (2:25:55)

Mr. Marquand led the discussion. This was for information only; no Board action taken.

f. Legislation (continued) (2:27:04)

i. Bills being monitored by BSD and BOME staff

Mr. Marquand led the discussion. This was for information only; no Board action taken.

h. Election of Board Officers (2:30:55)

MOTION: Ms. Bollinger nominated Dr. Guggenheim for Vice President; Ms. Brekke seconded the nomination. Nomination approved unanimously. (2:31:23)

MOTION: Ms. Erickson nominated Dr. Hayward for Secretary; Dr. Thomas seconded the nomination. Nomination approved unanimously. (2:32:40)

i. Committee and Panel Appointments (2:33:19)

MOTION: Dr. Thomas made a motion to disband the Hyperbaric Oxygen Therapy Subcommittee; Dr. Upchurch seconded the motion. (2:33:54) Discussion ensued. The motion was amended as follows:

MOTION: Dr. Thomas made a motion to redesignate the [standing] Hyperbaric Oxygen Therapy Subcommittee to be an *ad hoc* committee; Dr. Upchurch seconded the motion. Motion passed unanimously. (2:34:44)

MOTION: Ms. Brekke made a motion to redesignate the [standing] Physician-Hospital Subcommittee to be an *ad hoc* committee; Dr. Hayward seconded the motion. (2:36:27) Discussion ensued. The motion was amended as follows:

MOTION: Ms. Brekke made a motion to redesignate the [standing] Physician-Hospital Subcommittee to be an *ad hoc* committee and to strike Dr. Guggenheim's name and Dr. Dean Center's name from the list of members; Dr. Hayward seconded the motion. Motion passed unanimously. (2:38:32)

MOTION: Dr. Earl made a motion to disband the Strategic Planning Committee; Ms. Bollinger seconded the motion. Motion passed unanimously. (2:40:21)

MOTION: Ms. Erickson made a motion to have the position of Outreach Committee Chair also include the position of Board Liaison; Ms. Brekke seconded the motion. Motion passed unanimously. (2:43:54)

MOTION: Ms. Erickson made a motion to replace Dr. Dean Center's name on the Outreach Committee's membership list with Dr. Earl's name; Dr. Thomas seconded the motion. Motion passed unanimously. (2:45:49)

MOTION: Ms. Brekke made a motion to designate that the Acupuncture Continuing Education Subcommittee be renamed the Acupuncture Committee and that there should be a minimum of 3 committee members of which 2 must be permanent Board members and the third is a practicing acupuncturist; Ms. Erickson seconded the motion. (2:47:07) Discussion ensued. Motion passed unanimously. (2:49:04)

- j. **EMS Staff Positions (2:50:35)**
Dr. Upchurch led the discussion.

MOTION: Mr. Thompson made a motion to direct Mr. Marquand, Dr. Upchurch & Mr. Thompson to prepare a letter to Mr. Jack Kane, with a copy to Ms. Pam Bucy, expressing the value of the two current EMS positions and recommend the two EMT positions be made permanent; Dr. Guggenheim seconded the motion. Motion passed unanimously. (2:56:31)

- k. **Scheduling of Next Meeting / Meeting Planning—** May 16-17, 2013 (2:58:19)

8. Presentation on BSD Licensing Bureau Processes (3:11:38)

[Ms. Jeannie Worsch was not available; no presentation made.] Ms. Erickson provided a progress update. This was for information only; no Board action taken.

9. Committee & Special Project Reports

- a. **Physician/Hospital Committee—**Kristin Spanjian, M.D. (3:16:30)

This was for information only; no Board action taken.

- b. **Medical Direction Committee—**James Upchurch, M.D. (3:16:38)

This was for information only; no Board action taken.

- c. **Laws & Rules Committee—**Mary Anne Guggenheim, M.D. (3:18:01)

MOTION: Dr. Guggenheim made a motion to request Board counsel to prepare draft rules changes relative to re-entry issues for new applicants and changes from inactive-to-active licenses for physicians and new applications for all of the Board's disciplines, which rules changes would be brought to the Laws & Rules Committee; Ms. Erickson seconded the motion. Motion passed unanimously. (3:40:28)

- d. **Outreach Committee/Board Liaison—**Ms. Carole Erickson (3:42:21)

This was for information only; no Board action taken.

- e. **Physician Workforce Data Collection Subcommittee—**Ms. Carole Erickson (3:42:21)

This was for information only; no Board action taken.

- f. **Acupuncture Continuing Education Subcommittee—**Ms. Tanya Brekke, L. Ac. (3:53:34)

This was for information only; no Board action taken.

g. Concussion Project (Jointly with Board of Athletic Trainers)—Harry Sibold, M.D. (3:57:23)

This was for information only; no Board action taken.

10. EMT Training Report & Medical Director Report

b. Medical Director Report -- Harry Sibold, M.D. (3:59:08)

MOTION: Ms. Erickson made a motion to support Dr. Sibold getting renewed certification as an Advanced Trauma Life Support (ATLS) instructor; Ms. Brekke seconded the motion. (4:01:03) Discussion ensued. Motion passed unanimously. (4:02:45)

a. EMT Training Report – Mr. Ken Threet (4:03:05)

MOTION: Ms. Brekke made a motion that the Board sign a certificate of recognition for EMT long-standing service; Dr. Upchurch seconded the motion. Motion passed unanimously. (4:04:56)

ii. Travel request to Arizona (4:05:29)

MOTION: Dr. Hayward made a motion to approve travel to Arizona for Dr. Upchurch, Dr. Sibold and Mr. Threet [in connection with] investigating a testing process which is being developed [that may meet the Board's requirements for local testing of competence]; Mr. Thompson seconded the motion. Motion passed unanimously. (4:07:29)

i. Discussion whether any reciprocity applications may be considered routine (4:08:29)

MOTION: Dr. Guggenheim made a motion granting authority to staff to grant a license on a EMT reciprocity application if the applicant is otherwise qualified, and if: 1) the applicant holds an EMT license in good standing with another state which state has an EMT license disciplinary process, and 2) the applicant has passed practical and written competency examination; otherwise the EMT reciprocity application is to come before the Board; Ms. Brekke seconded the motion. Motion passed unanimously. (4:12:10)

MOTION: Dr. Thomas made a motion to accept the Medical Director Report; Dr. Upchurch seconded the motion. Motion passed unanimously. (4:13:06)

MOTION: Dr. Upchurch made a motion to accept the EMT Training Report; Dr. Thomas seconded the motion. Motion passed unanimously. (4:13:27)

j. Executive Officer Report

a. Budget Report (4:13:50)

This was for information only; no Board action taken.

b. Application Report (4:15:41)

This was for information only; no Board action taken.

c. Report from MT Prescription Drug Registry (4:19:00)

This was for information only; no Board action taken.

d. New Board Member Manual (4:21:17)

This was for information only; no Board action taken.

k. Legal Report (4:37:23)

This was for information only; no Board action taken.

l. Adjourn

MOTION: Mr. Thompson made a motion to adjourn; Dr. Hayward seconded the motion. Motion passed unanimously. (4:50:32)

Meeting adjourned. (4:50:52)